

**Summary of Twenty-fifth Negotiation Session on
New Water Supply and Extended MOU Agreement**

Date of Session: January 24, 2005
Place: Santa Rosa Laguna Treatment Plant
Time: 9:00 AM – 10:30 PM

Parties Present and Represented:

Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma and Windsor.
Special Districts: Sonoma County Water Agency, Valley of the Moon WD, North Marin WD and Marin Municipal WD.

Attachment A contains complete list of attendees.

Approval of Recap of December 6, 2004 Negotiation Session:

After a recap by John Nelson, JONWRM, Mike Martini, City of Santa Rosa, made a motion to approve the minutes and Krishna Kumar, Valley of the Moon Water District, seconded. All approved. Mr. Nelson noted that he had not finished developing a suggested shortage allocation. Armando Flores asked if the approach being considered involved conservation allotments. Mt. Nelson said he was trying to develop an approach that incorporated SCWA's desire to include conservation commitments but that the problem was complex and he had nothing to suggest at this time.

Status of Discussion with SCWA regarding Santa Rosa's Proposed Language for Section 3.5:

Pam Jeane, SCWA, passed out copies of a new draft of the proposed Restructured Agreement showing changes relative to Draft 4 dated May 17, 2004, stating that it was Mr. Poole's position that we are stuck and that Randy plans to go to the Agency's Board of Directors to suspend negotiations. She noted that on advise of counsel; the new draft included no changes to the Section 3.5 language suggested by Santa Rosa.

Miles Ferris, City of Santa Rosa, asked about the language suggested by the City in section 3.5 linking ESA projects to the water supply function of SCWA. Pam noted those changes had also not been made on advice of counsel. Chris DeGabriele said he thought the language of the draft fairly covered the ESA cost issue. Paul Helliker asked if Section 2.8 didn't provide adequate language. Virginia Porter, City of Santa Rosa, said that the language of Section 4.14(b) (1) gave the Agency unilateral control on ESA spending. Paul Helliker asked if this difference couldn't be worked out. Miles Ferris said the City of Santa Rosa had tried.

Mike Healy, City of Petaluma, asked Pam Jeane if the SCWA could put in writing why SCWA could not agree to the changes suggested by Santa Rosa to Section 3.5. Mrs. Jeans said staff would provide the email for County Counsel to Santa Rosa's counsel.

John Nelson, JONWRM, said that he had not been asked to review and provide input to this new draft as has been the past procedure; noted that this was the first time SCWA had issued a unilateral draft of its own; and noted that last September he had prepared a list of minor and major changes and issues remaining and asked Pam Jeane if the September list of items had been addressed in the new draft. Pam Jeane said the new draft contained some clarifications and minor changes but that she would have to check with SCWA counsel.

Other Contractors noted that time did not permit review and comment on the proposed new draft.

SCWA Applicability of 75,000 acre-ft Permit Limitation

Pam Jeane asked this matter be deferred until Mr. Poole was present. Toni Bertolero, City of Cotati, said this was an important issue that needed to be resolved.

Petaluma's Suggested Change for Section 1.6:

Following up last meetings discussion on the concept, Mike Healy distributed copies of the following suggested language for Section 1.6:

Add a new paragraph (e) as follows:

“Notwithstanding the provisions of Section 1.6(b) above, the Agency shall not consider any Water Contractor’s requested modification to increase an annual delivery limit unless the Agency has obtained and perfected appropriative water rights beyond the 101,000 acre-feet/year allocated in this Agreement sufficient to accommodate the additional diversions requested.”

Pam Jeane noted that the proposed language does not take into account the possibility that additional water may not come from the Russian River Project, in which case water rights would not be an issue and should not be a requirement for an increase in annual delivery limit.

Krishna Kumar, noted that VOMWD needed to have a resolution to the year 2005 limit on its annual cap and suggested adding the following exception or some similar language to the same effect:

“.....unless such requests are on account of the expiration of general plan horizons used for the existing annual delivery limit.”

Mr. Healy agreed that VOMWD's situation needed to be accommodated. Toni Bertolero noted that allocation shifting needed to be accommodated as well. Pam Jeane said annual limits were important in demonstrating SCWA's commitments for service to the State Water Resources Control Board. John Nelson said the original purpose of the annual caps in 1994 was to set forth limits in the DEIR for the Transmission System consistent with then approved general plans thus avoiding the necessity of duplicating growth inducing impact analyses. He said now that SCWA has opted to prepare a new EIR that the caps should be increased to new general plan limits. Darrin Jenkins, City of Rohnert Park, and John Nelson pointed out that the 101,000 acre-ft included more than Water Contractor water covered by the Restructured Agreement. Mr. Healy agreed to correct the language by deleting the phrase: "allocated in this agreement" and said he remained available to work with any party on the language.

Discussion of MMWD's Option to Firm Up Additional 5,000 acre-ft

Chris DeGabriele, North Marin Water District, reported that subcommittee had met but that another meeting was needed to develop a recommendation for the full WAC of a response to MMWD's suggested four alternatives of January 3, 2005. He said the subcommittee could only address Alternative 3 (Water Contractors to compensate MMWD in return for MMWD to not exercise its option).

Paul Helliker, Marin Municipal Water District, asked if the subcommittee was not also addressing Alternative 4 (MMWD to compensate Water Contractors in exchange for extending the option deadline). Mr. DeGabriele said no, the subcommittee felt MMWD should address that alternative. Mr. Helliker said MMWD would address Alternative 4 and suggested that the matter be brought to a head at the next regular meeting of the WAC if possible - noting the lead-time necessary to conclude the issue before the June deadline.

New Development, Efficiency and Water Use

Pam Torliatt, City of Petaluma, asked to defer discussion to the next negotiation session noting staff was still working on this item.

Next Agreement Negotiation Session:

Time and Date: 9:00 AM-12:00 PM, February 28, 2005
Place: Santa Rosa's Laguna Treatment Plant

Attachments:

- A. List of Attendees, January 24, 2005 WAC Water Supply Negotiation Session

Attachment A

Attendees at WAC Water Supply Negotiation Session of January 24, 2005

Attendees:

Chris DeGabriele, North Marin Water District
Drew McIntyre, North Marin Water District
Jack Baker, North Marin Water District
Michael Ban, City of Petaluma
Pam Torliatt, City of Petaluma
Steve Simmons, City of Petaluma
Mike Healy, City of Petaluma
Al Bandur, City of Sonoma
Pam Jeane, Sonoma County Water Agency
Miles Ferris, City of Santa Rosa
Virginia Porter, City of Santa Rosa
Mike Martini, City of Santa Rosa
Jane Bender, City of Santa Rosa
Ron Theisen, MMWD
Steve Phelps, MMWD
Jon C. Mandell, MMWD
Dana F. Roxon, MMWD
Paul Helliker, MMWD
Krishna Kumar, Valley of the Moon Water District
Armando Flores, City of Rohnert Park
Darrin Jenkins, City of Rohnert Park
Matt Mullan, Town of Windsor
Paul Berlant, Town of Windsor
Toni Bertolero, City of Cotati
Janet Orchard, City of Cotati
John Nelson, JONWRM

Public Attendees:

Don McEnhill, League of Women Voters
Brenda Adelman, RRWPC
David Keller, FOER
Fred Soares, Southwest Neighborhood Alliance
Bob Anderson, United Wine Growers
Jim Downey, Penngrove / Kenwood Water
Paul Stutrud, OWL Foundation